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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/665,799

09/18/2003

Bruce M. Russell

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23909 7590 03/31/2008  
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EXAMINER

GUIDOTTI, LAURA COLE

ART UNIT

PAPER NUMBER

3723

MAIL DATE

DELIVERY MODE

03/31/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/665,799	<b>Applicant(s)</b> RUSSELL, BRUCE M.	
	<b>Examiner</b> Laura C. Guidotti	<b>Art Unit</b> 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 2,5-11 and 16-18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Wall, US 4,423,531.

Wall discloses the claimed invention including a handle (40), a head (22) sized for an oral cavity and the head mounted to one end of the handle (see Figure 1), the head including a cleaning element carrier (also 22), the cleaning element carrier being in the form of a peripheral frame (unlabeled, periphery of 22 and includes sides 28) having an open central area (86, see Figures) and capable of being fixed with respect to the handle (see Figures), a plurality of sets of joints located at spaced intervals on the frame (joints at intersection between frame and lateral or transverse elements, see Figures 1 and 6; “joint” is defined as “the place at which two things, or separate parts of one thing, are joined or united, either rigidly or in such a way as to permit motion; juncture” according to *Dictionary.com Unabridged (v 1.1) Based on the Random House Unabridged Dictionary, © Random House, Inc. 2006.*), a plurality of generally thin support members (includes 68a-c, transverse ones are unlabeled), cleaning elements capable of cleaning teeth secured along the length of the support members (30), each of the support members having a first end secured to the frame at one end of the joints and a second end secured to the frame at one of the joints (Figure 1), each of the support members (lateral ones include 68a-c, transverse ones unlabeled) being

disposed transversely and laterally across said open area of the frame (as shown in Figure 1), the lateral support members being generally parallel to a longitudinal axis of the handle and perpendicular to the transverse support members (68a-c) and the lateral support members being spaced equidistant to each other and the transverse support members being spaced equidistant to each other (68a-c, as shown in Figure 1, lateral support members 68a-c are each equidistant to each other and transverse support members are each equidistant to each other), and the support members creating an open lattice pattern having through holes over the open area of the frame (86) capable of facilitating the cleaning of the head. Regarding claim 12, the cleaning elements are bristles (30).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 3-4, 13, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wall, US 4,423,531 in view of Balster et al., US 5,327,611.

Wall discloses all elements previously mentioned above, however does not disclose a particular material from which the bristles and support members are made, that the bristles and support members/plates are made of the same material or integral with the bristles, or that the bristles have rounded ends.

Balster et al. teaches a hairbrush wherein there is a frame having support members (24) that has cleaning elements that are bristles (29), and that the cleaning elements and support members that are “plates” are made of a thermoplastic material

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and are formed integrally (Column 3 Lines 22-41) in order to reduce the cost of manufacture and so that the brush is less likely to be structurally damaged (Column 3 Lines 27-28). In addition, the bristles (29) have rounded cleaning ends (52) so that the ends of the bristles are smooth and will not injure or irritate the scalp of a user (Column 7 Lines 58-61).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the support members and bristles of Wall to be formed integrally of thermoplastic material, as Balster et al. teach, in order to manufacture the brush inexpensively and to form a brush that is less likely to be structurally damaged, and furthermore it would have been obvious for one of ordinary skill in the art at the time of the invention to modify the bristle shape of Wall to have ends that are rounded, as Balster et al. teach, so that the ends of the bristles are smooth and to not irritate the user's scalp.

3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wall, US 4,423,531 in view of Bigio, US 2001/0001887.

Wall discloses all elements previously mentioned above, however does not disclose bristles that form a pattern of differing length.

Bigio teaches a hairbrush that bristles that form a concave profile pattern based on the different lengths of the bristles (see Figures) so that the hair brush is anatomically correct, reduces the force needed to brush a user's hair, and will thereby provide a hair brush that creates hair styles with more volume (paragraphs 6-14).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the lengths of the bristles of Wall so that there is a bristle pattern of differing length, as Bigio teaches, so that the brush is anatomically correct and allows a user to create hair styles with more volume.

***Allowable Subject Matter***

4. Claims 2, 5-11, and 16-18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments filed 20 December 2007 have been fully considered but they are not persuasive.

The Applicant argues that the frame of Wall is not "fixed with respect to a handle." However, the Examiner respectfully disagrees. From the Figures and disclosure of Wall, it is clear that the frame is fixed to the handle. The Applicant particularly points out that the specification of Wall states that they are in a "slideable engagement", which is correct. Thus, the frame and handle are slidably fixed in that the same way a door is rotatably fixed to a door frame.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on (571) 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura C Guidotti/  
Primary Examiner, Art Unit 3723

lcg